

REMARKS

The Office Action of October 16, 2008, has been carefully considered.

Claims 17-19, 21-23, 26 and 28 have been rejected under 35 USC 102(b) as anticipated by Nairn et al, while Claims 17 and 27 have been rejected under 35 USC 103(a) over Hamilton in view of Nairn et al, Claims 20 and 25 have been rejected under 35 USC 103(a) over Nairn et al, Claim 24 has been rejected under 35 USC 103(a) over Nairn et al in view of Delgado and Claims 29-31 have been rejected under 35 USC 103(a) over Nairn et al in view of Fuchs.

Claim 17 has now been amended to better define the invention. Claim 17 now recites a functional insert for insertion into the neck of a bottle comprising a body which is constructed and arranged for insertion into the neck of the bottle by force fitting (an "in-bore" insert), where the body comprises a cylindrical wall defining an outer surface and at least one flexible rib extending outwardly from the outer surface of the cylindrical wall for forming a sealed junction with an inner surface of the neck. The rib includes an upper surface and an adhesive is supported on at least one of the upper surface of the rib and the outer surface of the wall above the upper surface of the rib.

New Claim 32 recites a plurality of flexible ribs, with adhesive disposed at at least one of the upper surface of at least one of the ribs and the outer surface of the wall above the upper surface of at least one of the ribs.

The invention as claimed is clearly supported by the drawings of the present application.

Nairn et al discloses an insert which may be used for a plastic bottle. Adhesive is applied to the container to secure the insert and it is alleged that this adhesive comes into contact with the ribs.

Nairn et al does disclose a cylindrical insert, but it is of the "out-bore" type, and while ribs are not disclosed, there are outwardly extending threads on the outer surface of the insert. However, such threads do not come into contact with the disclosed adhesive, and should not come into contact with any adhesive, since the outwardly directed threads are used to retain a removable cap on the bottle.

Threads which do come into contact with the adhesive are located on an inner surface 39 of an outer skirt 37, and are used to secure the insert on the bottle. Since the adhesive is located on inwardly directed threads rather than outwardly directed threads, Nairn et al does not anticipate the claimed invention.

Moreover, Nairn et al does not render the claimed invention obvious, because it is not directed to a body constructed and arranged for insertion into the neck of a bottle by force fitting, but rather is secured by threads. According to the invention, the adhesive is disposed in such a manner that when the insert is force fit into the bottle, the ribs will curl upwardly, preventing the insert from moving upwardly, and spreading the adhesive against the surface of the neck of the bottle to secure the insert in place. The insert of Nairn et al is secured by an entirely different mechanism which would not result in upward bending of the threads, and it would not be obvious to one of ordinary skill in the art to modify such a mechanism to operate in an entirely different manner.

In the Nairn et al device, the direction of deformation of the threads is not relevant, since the threads are remote from the inner neck of the bottle, and do not influence contamination of the bottle contents with adhesive. For the claimed in-bore inserts, the adhesive is in contact with the inner neck of the bottle, so curling must take place upwardly

to prevent contamination. The term "upwardly" in the context of the invention means the direction opposite to the contents of the bottle.

The Hamilton reference discloses a functional insert in which the adhesive is disposed between the inner surface of the cylindrical wall of an outer pouring member and the external wall of the receptacle neck; the functional insert does not comprise any adhesive. Moreover, Hamilton does not disclose a flexible rib arrangement for forming a sealed junction with the neck of the receptacle.

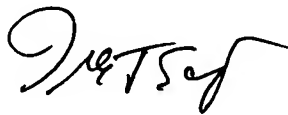
Thus, both Hamilton and Nairn et al disclose out-bore devices, and teach placing the adhesive on the inner surface of the device rather than the outer surface, as in the claimed invention.

The remaining secondary references to Delgado and Fuchs have been discussed previously, and do not cure the defects of the Nairn et al and Hamilton references.

Withdrawal of these rejections is requested.

In view of the foregoing amendments and remarks, Applicants submit that the present application is now in condition for allowance. An early allowance of the application with amended claims is earnestly solicited.

Respectfully submitted,



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